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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SHAVOTNAE GOLDSBY, AND ALL OTHERS
SIMILARLY SITUATED,

Plaintiff,

vs.

ADECCO, INC, and DOES 1 through 100, inclusive,

Defendants.

No. CV-07-5604 MMC

**SUPPLEMENTAL DECLARATION OF
DANIEL H. QUALLS IN SUPPORT OF
PLAINTIFF SHAVOTNE GOLDSBY'S
REPLY MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT OF
MOTION TO MODIFY PRETRIAL
PREPARATION ORDER**

DATE: AUGUST 1, 2008

TIME: 10:30 A.M.

CTRM: 7

JUDGE: HON. MAXINE M. CHESNEY

1 I, Daniel H. Qualls, declare as follows:

2 1. I am an attorney at law, duly licensed to practice before all the courts of the State of
3 California, and am a Partner with the law firm of Qualls & Workman, L.L.P., attorneys of record
4 herein for Plaintiff Shavotnae Goldsby. The following is based on my personal knowledge, and if
5 called upon to do so, I could and would competently testify thereto.

6 2. On June 4, 2008, Plaintiff's counsel took the deposition of ADECCO's
7 representative, Kim Hans, Vice President of Operations, Southwest Division on the noticed topics.
8 At this deposition, Plaintiff learned the nature of Defendant's recordkeeping practices for the first
9 time: the various methods by which ADECCO hourly employees record their meal periods and
10 the existence of ADECCO's records thereof. Attached hereto as Exhibit A are true and correct
11 copies of Kim Hans' deposition testimony.

12 I declare under penalty of perjury that the foregoing is true and correct and that this
13 Declaration was executed July 18, 2008, in San Francisco, California.

14 
15 _____
16 DANIEL H. QUALLS

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EXHIBIT A.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SHAVOTNAE GOLDSBY, AND
ALL OTHERS SIMILARLY
SITUATED,

Plaintiff,

vs.

ADECCO, INC, and DOES 1
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Defendants.

Case No. CV-07-5604 MMC

DEPOSITION OF
KIM HANS

---oOo---

JUNE 4, 2008

REPORTED BY: CHERREE P. GAGE, CSR No. 11108, RPR, CRR

KIM HANS

1 Q. When Adecco employees fill out time cards, do
2 they do so online?

3 A. They can do so online.

4 Q. Is there any other way they can fill out time
5 cards?

6 A. We also have a telephone system that they can
7 input their time through.

8 Q. Any other way?

9 A. They can turn in a time card to our office,
10 they can use a punch clock or electronic timekeeping
11 system at the customer site.

12 Q. Any other way?

13 A. I can't think of anything.

14 Q. What percentage of time cards are filled out
15 online?

16 A. I don't know the exact answer to that.

17 Q. Can you give me an estimation?

18 A. I would not be able to give you an estimation.
19 We would have to do some research to find out.

20 Q. Are most time cards filled out online?

21 A. I wouldn't say most, no. It really varies.

22 Q. How long are time cards filled out online
23 kept?

24 A. I don't know the exact answer to that, but we
25 can find out for you.

1 associate to see their time card. And customers in some
2 cases have copies of the time cards and we can ask them
3 to see the time card.

4 MR. QUALLS: Could you read back that response
5 for me, please.

6 (Whereupon the record was read as requested.)

7 Q. BY MR. QUALLS: Do employees who use Exhibit 3
8 for their time cards also submit hard copy time cards?

9 A. Sometimes.

10 Q. And some employees don't do so; is that
11 correct?

12 A. Right.

13 Q. For employees who submit Exhibit 3 as their
14 time card electronically, are those employees also
15 required to submit a hard copy time card?

16 A. They're not required to.

17 Q. For employees who submit Exhibit 3
18 electronically, are customers also required to maintain
19 a time card for that employee?

20 A. We'd like them to. They're not required to.

21 Q. Have you ever tried to retrieve meal period
22 information for an employee who has submitted a time
23 card such as Exhibit 3?

24 A. I have not.

25 Q. Have you ever directed anyone to do so?

1 A. Yes. Because we do ask our associates to fill
2 out the paper time card if that's the time capture
3 method that's being used.

4 Q. Did you --

5 A. And we ask them to turn the time cards in to
6 us.

7 Q. Did you take any other steps?

8 A. No.

9 Q. When an employee uses the time capture system
10 to enter time card information, does the employee enter
11 the time worked began and the time worked ended in a
12 given day?

13 A. No.

14 Q. Does the employee enter the number of hours
15 worked on a given day?

16 A. Yes.

17 MR. QUALLS: Off the record.

18 (Discussion off the record.)

19 Q. BY MR. QUALLS: Turning your attention again
20 to Exhibit 3 on the top.

21 A. Yep.

22 Q. There's a reference to "Call in your hours to
23 ATS"?

24 A. Automated time sheet I think is what that
25 stands for.

1 Q. What percentage of employees use ATS to submit
2 a time sheet?

3 A. I don't know.

4 Q. Are you able to estimate the percentage?

5 A. I'm not. It really would depend.

6 Q. Do most employees use ATS?

7 A. No.

8 Q. How long has the ATS system been used by
9 Adecco?

10 A. I don't know.

11 Q. What is your best estimate of when Adecco
12 began using the ATS system?

13 A. About four, five years ago. I don't know.
14 Someone would have to verify that.

15 Q. Are there any written instructions provided
16 employees on the subject of how to use the ATS system?

17 A. No. I believe it's self-explanatory. It
18 walks them through. It's an automated system.

19 Q. Does the ATS system capture meal period
20 information?

21 A. I don't believe so.

22 Q. What information does the ATS system capture?

23 A. I believe it's the same as the web time where
24 it captures daily hours.

25 Q. Are employees who use the ATS system required

1 to also prepare a hard copy of their time?

2 A. Ideally we'd like them to do that.

3 Q. My question is are they required to do so?

4 A. In some cases we ask them to. As far as
5 required, there are no consequences if they don't.

6 Q. Are they told they must?

7 A. Yes.

8 Q. So all employees that use the ATS system are
9 told they also must keep a hard copy of a time card?

10 A. Yes.

11 Q. So employees who use the ATS system both use
12 the ATS system and fill out a paper time card; is that
13 right?

14 A. They're supposed to.

15 Q. Is there any monitoring system in place to
16 determine which employees who use the ATS system do not
17 fill out a paper time card?

18 A. Not that I'm aware of.

19 Q. Is there any enforcement of the requirement
20 that employees who use the ATS system also fill out a
21 paper time card?

22 A. Not as a general practice.

23 Q. To your knowledge does Adecco have any way of
24 knowing which employees -- withdraw the question.

25 Are clients required to keep a record of meal

1 ambiguous.

2 Q. BY MR. QUALLS: You can answer.

3 A. We receive -- we can access records that show
4 the total time that's input by our associates.

5 Q. What are those reports called?

6 A. Payroll register.

7 Q. Does the payroll register indicate that the
8 information was submitted through the ATS system?

9 A. I don't think so.

10 Q. Is there any summary that you're aware of of
11 data submitted through the ATS system?

12 A. I'm not aware of.

13 Q. If you wanted to know what information was
14 submitted by an individual employee through the ATS
15 system specifically, would there be a way for you to
16 determine that?

17 A. I don't know.

18 Q. Are employees who use the ATS system told in
19 writing that they are required to also keep a hard copy
20 time card? Withdraw the question. Restate it.

21 Are employees who use the ATS system told in
22 writing that they are also to submit a hard copy time
23 card?

24 A. They're not -- they're asked to submit a hard
25 copy to the client. It does not indicate that they must

1 submit a hard copy to Adecco.

2 Q. The hard copy time card goes to the client,
3 not Adecco; is that correct?

4 A. We ask them to submit a copy of the time card
5 to Adecco. We also ask them to submit a hard copy to
6 the client. It's in writing that they need to give a
7 copy to the customer.

8 Q. They have nothing in writing telling them that
9 they have to give a copy also to Adecco; is that
10 correct?

11 A. I don't believe so. Can I see the time card?

12 Q. Sure.

13 A. Customer copy, associate copy, customer copy.
14 No. There's nothing that says Adecco copy.

15 Q. Are associates told that the associate copy on
16 Exhibit 3 is to be given by the associate to Adecco?

17 A. No. We don't require they give us their copy.
18 We require a copy of the time card, so they could fax us
19 a copy of it, they can drop off their copy, they can
20 make a copy.

21 Q. If one asks for it; is that correct?

22 A. Right.

23 Q. Unless someone asks for it, there's no
24 requirement that they submit their copy to Adecco on a
25 weekly basis?

1 Q. How long are ATS records kept?

2 A. I don't know.

3 Q. If you wanted to know the answer to that
4 question, who would you ask?

5 A. I would ask our operations department or our
6 IT department.

7 Q. Do you know where ATS records are kept?

8 A. No. Not specifically.

9 Q. For employees who use the ATS system but do
10 not submit a paper time card to Adecco, is a record kept
11 by Adecco of meal periods?

12 A. No.

13 Q. Some Adecco employees use paper time cards; is
14 that correct?

15 A. Yes.

16 Q. The paper time card is in fact Exhibit 3; is
17 that correct?

18 A. Exactly.

19 Q. And Exhibit 3 -- withdraw the question.

20 To whom do Adecco employees using Exhibit 3
21 submit their time cards?

22 A. It depends. They could submit it to the
23 branch or they could fax it to the branch or if they
24 work at a client where Adecco has a presence, they could
25 turn it in to the on-site person at the client. They

1 could leave it in some kind of box that someone from
2 Adecco comes by and picks up. There's a million
3 different options.

4 Q. Once a time card such as Exhibit 3 has been
5 submitted by an employee, where does the time card go?

6 A. To -- either to our Adecco office or to a
7 location where there's someone that does the inputting
8 of the time.

9 Q. So time card data input is done either at the
10 Adecco office or some other site where that function is
11 performed, correct?

12 A. Unless the associate did their own data input
13 through the web time or the ATS system.

14 Q. Understood. Now, for purposes of my
15 questioning now I'm going to be asking questions
16 regarding those employees who only submit a paper time
17 card. All right?

18 A. Okay.

19 Q. When data is input for a paper time card at an
20 Adecco office, what data is input?

21 A. The total daily hours.

22 Q. Any other data?

23 A. No.

24 Q. Once the data is inputted, what is done with
25 the paper time card?

1 A. It's retained in the branch or at a storage
2 site.

3 Q. For how long?

4 A. For whatever our company policy is. I don't
5 know off the top of my head.

6 Q. The data input that takes place in Adecco
7 office is the same as data input at another site where
8 that function takes place?

9 MR. BARKER: Could you repeat that? I don't
10 think I got it.

11 MR. QUALLS: I'll redo it.

12 Q. I believe I asked the question of what data
13 was input at an Adecco office when a time card is --
14 when a time card arrives at an Adecco office. You
15 indicated earlier in your testimony data is input at
16 other sites.

17 A. Right.

18 Q. My question is where data is input at other
19 sites, is it the same data that is inputted?

20 A. Yes.

21 Q. From the time card?

22 A. Yes.

23 Q. When a time card -- withdraw the question.

24 When time card data is inputted, is any record
25 kept to your knowledge of meal periods?

1 MR. BARKER: You mean other than the time card
2 itself or are you talking about on the inputted stuff?

3 MR. QUALLS: Yes.

4 MR. BARKER: Which are you talking about?

5 MR. QUALLS: All right. I'll rephrase.

6 Q. When time card data is input other than the
7 time card itself, is any other record created regarding
8 meal period data?

9 A. No.

10 MR. BARKER: You want a break?

11 THE WITNESS: Does anybody feel like taking a
12 break?

13 MR. QUALLS: You can take a break anytime you
14 wish.

15 (Whereupon a break was taken from 11:18 to
16 11:39.)

17 Q. BY MR. QUALLS: All right. Back on the
18 record. Turning your attention again to Exhibit 3.

19 A. Okay.

20 Q. The second page, the back page.

21 A. Yes.

22 Q. Under the section for associate, do you see
23 that?

24 A. Yes.

25 Q. This section informs the associate what steps

1 direct upload just because of the sophistication of the
2 tool.

3 Q. Do you know if in that process meal period
4 data is captured in the --

5 A. I don't know.

6 Q. -- time capture system? Where employee time
7 records are captured by time clocks provided by clients,
8 is there a time capture system that captures that data?

9 A. I think --

10 MR. BARKER: The question's vague.

11 THE WITNESS: I think it would depend on the
12 system. There's always going to be a variety of
13 different ways of capturing because it depends on the
14 tools. So it could be that it does a direct upload,
15 that would be ideal --

16 MR. BARKER: That's not what he asked you.

17 THE WITNESS: Sorry. Okay. Start over. Tell
18 me the question again.

19 MR. QUALLS: Sure. Would you read back the
20 question, please.

21 (Whereupon the record was read as requested.)

22 THE WITNESS: I don't know.

23 Q. BY MR. QUALLS: Do you know how employee time
24 -- does the time -- withdraw the question.

25 Do time capture systems capture information

1 regarding hours worked for purposes of payroll?

2 A. Yes.

3 Q. How are hours worked captured for payroll
4 where employees use time clocks provided by clients?

5 A. It could be a variety of ways. Ideally would
6 be a direct upload from their system to ours. It could
7 be that it prints out a report. It depends on the
8 capability of the time capture system and its
9 compatibility to our system.

10 Q. When you say it prints out a report, do you
11 mean the clients supply time clock printout reports?

12 A. Yes.

13 Q. Is the report then -- withdraw the question.
14 Is the data on that report then inputted into
15 a time capture system by Adecco?

16 A. Yes.

17 Q. What system is it inputted into?

18 A. At time.adecco.com.

19 Q. Is there a way to determine what employees use
20 the ACT system to input their time records?

21 MR. BARKER: The ATS?

22 MR. QUALLS: Did I say --

23 MR. BARKER: Did you mean ATS?

24 MR. QUALLS: Yes.

25 THE WITNESS: Is there a way to determine --